

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

As Engrossed: H3/20/97 S4/2/97

## A Bill

HOUSE BILL 2117

4  
5 By: Representative Cunningham  
6  
7

### For An Act To Be Entitled

8  
9 "AN ACT TO AMEND ARKANSAS CODE § 6-20-1204 TO PROVIDE FOR  
10 ADDITIONAL SECURITY FOR THE PAYMENT OF BONDS OF A SCHOOL  
11 DISTRICT; TO DECLARE AN EMERGENCY; AND FOR OTHER  
12 PURPOSES."  
13

### Subtitle

14  
15 "TO PROVIDE FOR ADDITIONAL SECURITY FOR  
16 THE PAYMENT OF BONDS OF A SCHOOL  
17 DISTRICT."  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. Arkansas Code § 6-20-1204 is amended to read as follows:

22 "§ 6-20-1204. Form of bonds - Security ~~—Signatures.~~

23 (a) School bonds shall be issued by a school district in such form as  
24 the directors of the district shall prescribe.

25 (b) ~~They~~ School bonds may be secured by ~~a pledge of the building fund~~  
26 ~~and any and all other income of the district~~ debt service millage.

27 ~~—(c) Bonds sold prior to February 18, 1975, may be further secured by a~~  
28 ~~mortgage on any or all of the real and personal property of the district, but~~  
29 ~~no school district shall mortgage or otherwise encumber any of its real or~~  
30 ~~personal property as security for any of its bonds sold on or after February~~  
31 ~~18, 1975.~~

32 (c)(1) As additional security for the payment of any bond of a school  
33 district, the State Board of Education shall cure any delinquencies in payment  
34 by withholding state aid due the district. Whenever the designated paying  
35 agent for receipt of the district's payments does not receive a payment when  
36 due pursuant to the authorizing documents, the paying agent will be entitled

1 to payment from the withheld state aid in any amount sufficient to cure the  
2 payment deficiency upon notifying the Director of the State Department of  
3 Education, General Education Division, and the superintendent of the district  
4 by telephone, facsimile, or other similar communication, followed by written  
5 verification.

6 (2) Unless the director determines that payment has been made by  
7 the district and there is no longer a payment deficiency, the director shall  
8 withhold from the next distribution of state aid and remit to the paying agent  
9 an amount sufficient to cure the deficiency. In the event the amount next due  
10 to be distributed to the delinquent district is not sufficient to cure the  
11 delinquency, the director shall continue to withhold state aid as due and  
12 remit it to paying agent until the payment deficiency has been cured. If the  
13 director is notified that a district is delinquent on two (2) or more  
14 obligations, the director shall make payment to paying agents in the order of  
15 receipt of notices of the delinquency.

16 (3) If the State Board of Education withholds state aid from a  
17 school district pursuant to this subsection, such school district shall be  
18 classified as a Phase III school district in distress as described in  
19 § 6-20-1609.

20 ~~— (d) School bonds shall be executed on behalf of the district by the~~  
21 ~~president and secretary of its board of directors, with either the facsimile~~  
22 ~~or manual signature of the president, but with the manual signature of the~~  
23 ~~secretary, and in case any of the officers whose signatures appear on the~~  
24 ~~bonds or on coupons attached thereto shall cease to be officers before the~~  
25 ~~delivery of the bonds or coupons, the signatures shall, nevertheless, be valid~~  
26 ~~and sufficient for all purposes.~~

27 (d) Holders of bonds of the school district shall have a first and  
28 prior right and security interest in the revenue produced by the debt service  
29 millage pledged by the school district to the payment of its bonds.

30 ~~— (e) Coupons attached to the bonds may be executed by the facsimile~~  
31 ~~signature of the president of the board of directors."~~

32

33 *SECTION 2. Arkansas Code Annotated § 6-20-402 is amended to read as*  
34 *follows:*

35 *"6-20-402. Limitation on current indebtedness - Postdated warrants and*  
36 *installment contracts - Liability.*

1           (a) The amount of obligations incurred by a school district for any  
2 school fiscal year shall not be in excess of the revenue receipts of the  
3 district for that year except as provided herein and in §§ 6-20-801 et seq.  
4 and 6-20-1201 et seq. School districts may issue postdated warrants or enter  
5 into installment contracts or lease purchase agreements for the following  
6 purposes:

- 7                   (1) Purchase of school buses;
- 8                   (2) Payment of premiums of insurance policies on school  
9 buildings, facilities, and equipment in instances where the insurance coverage  
10 extends three (3) years or longer;
- 11                   (3) Purchase of equipment;
- 12                   (4) Repair and renovation of school facilities;
- 13                   (5) Purchase of school sites; and
- 14                   (6) Payment of the district's pro rata part of employing  
15 professional appraisers as authorized by laws providing for the appraisal, or  
16 reappraisal, and assessment of property for ad valorem tax purposes.

17           (b)(1) Postdated warrants, lease purchase agreements, and installment  
18 contracts must be paid within six (6) years of the date of issuance of the  
19 postdated warrant or the execution of the written lease purchase agreement or  
20 installment contract, as the case may be. Postdated warrants, lease purchase  
21 agreements, and installment contracts must be registered, on forms provided by  
22 the State Board of Education, with the treasurer of the district and the State  
23 Board of Education.

24                   (2)(A) Lease purchase agreements and installment contracts must  
25 have attached thereto a schedule of the rent or installments to be paid  
26 showing:

- 27                                   (i) The payee and any assignee;
- 28                                   (ii) The school district;
- 29                                   (iii) The purpose of the purchase or payment;
- 30                                   (iv) The due date of each installment; and
- 31                                   (v) The amount of principal and interest of each  
32 installment and the fiscal year in which such installment is to be paid.

33                   (B) A copy of each such contract and of the schedule of  
34 payments thereon shall be filed with the treasurer of the district and with  
35 the State Board of Education, and when so filed, each installment may be paid  
36 as it becomes due.

1           (3) The unpaid principal amount of postdated warrants issued and  
2 installment contracts and lease purchase agreements entered into shall be a  
3 part of the total debt of the district as limited by §§ 6-20-803 and  
4 6-20-1202, as amended, with the district fiscal officer and his surety liable  
5 for exceeding such limitations.

6           (4) Payments by a school district pursuant to postdated warrants,  
7 installment contracts, and lease purchase agreements shall be charged against  
8 the budget of the school fiscal year in which they become due and shall be  
9 paid out of the revenue receipts for that fiscal year.

10           (5) All warrants issued or installment contracts and lease  
11 purchase agreements entered into in excess of the revenue of a school district  
12 for a school fiscal year, except as herein provided, are null and void.

13           (6) It shall be the duty of the school fiscal officer to indicate  
14 on each school district warrant or on the schedule of payments attached to a  
15 written installment contract or lease purchase agreement the school year's  
16 revenues against which the obligation was incurred and is to be paid, and it  
17 shall be unlawful for the school fiscal officer to issue a school district  
18 warrant or enter into an installment contract or lease purchase agreement, the  
19 installments for which are to be charged against the revenues of a school  
20 year, if the obligation thereof was incurred in a different school year,  
21 except as otherwise authorized herein.

22           (7) The school fiscal officer may comply with the provisions  
23 hereof by indicating on each warrant or schedule of payments attached to any  
24 installment contract or lease purchase agreement the school year's revenues  
25 against which each payment is to be charged, or he may use a warrant of a  
26 distinct color for a particular year and shall advise the county treasurer, if  
27 the county treasurer serves as the school district treasurer, in writing of  
28 the color of warrant being used for credit against the revenues of a  
29 particular year.

30           (8) The county treasurer, or the district treasurer if the school  
31 district has its own treasurer, and his surety shall be jointly liable with  
32 the school fiscal officer and his surety for the payment of any school warrant  
33 or payment on a contract or agreement which is charged against the revenues of  
34 a school year if the amount thereof is in excess of the revenue receipts of  
35 the district for the school year against which the school fiscal officer has  
36 indicated the payment is to be charged or if he approved the payment with

1 knowledge that the payment is being charged by the school fiscal officer  
2 against the revenues of another school year in violation of this section.

3           (9) It is the purpose and intent of this section to place primary  
4 responsibility on the school fiscal officer and his surety for compliance with  
5 the provisions of this section and to make the county treasurer, or district  
6 treasurer if the school district has its own treasurer, and his surety liable  
7 for any payment on a warrant, contract, or agreement drawn in violation of  
8 this section where the amount of the payment exceeds the revenue receipts of  
9 the district for the school year against which it is charged, as indicated on  
10 the warrant, contract, or agreement or where the county treasurer approves a  
11 payment with the knowledge that it is in payment of an obligation of a  
12 different school year as prohibited in this section.

13           (c) A school district may incur current indebtedness and issue its  
14 notes or other evidence thereof as provided in this subsection.

15           (1) All current indebtedness incurred in a fiscal year shall  
16 mature on or before December 31 of the calendar year in which the fiscal year  
17 ends.

18           (2) Current indebtedness is not included in the term "bonded  
19 indebtedness" and shall not be considered a part of the total debt of a  
20 district as limited by §§ 6-20-803 and 6-20-1202, as amended.

21           (3) Current indebtedness shall be payable from, and may be  
22 secured by a pledge of, all or any part of the revenue receipts of the issuing  
23 district for the fiscal year in which the debt is incurred.

24           (4) The amount of obligations incurred by a school district for  
25 any school fiscal year, including current indebtedness, shall not, except as  
26 expressly authorized in subsection (a) of this section, be in excess of the  
27 revenue receipts of the district for that year.

28           (d) As additional security for the payment of any postdated warrant or  
29 current indebtedness of a school district, the district may authorize the  
30 State Board of Education to cure any delinquencies in payment by withholding  
31 state aid due the district ~~under § 6-20-301 et seq.~~ Such authorization shall  
32 be given at the time the warrant is issued or the current indebtedness is  
33 incurred and shall be given in such manner and in such form as the State Board  
34 of Education shall prescribe. If the debtor district has authorized  
35 withholding of state aid, whenever the payee or the designated paying agent  
36 for receipt of the district's payments does not receive a payment when due

1 pursuant to the authorizing documents, the payee or paying agent will be  
2 entitled to payment from the withheld state aid in an amount sufficient to  
3 cure the payment deficiency upon notifying the Director of the General  
4 Education Division and the superintendent of the district by telephone,  
5 facsimile, or other similar communication, followed by written verification.  
6 Unless the director determines that payment has been made by the district and  
7 there is no longer a payment deficiency, the director shall withhold from the  
8 next distribution of state aid and remit to the payee or paying agent an  
9 amount sufficient to cure the deficiency. In the event the amount next due to  
10 be distributed to the delinquent district is not sufficient to cure the  
11 delinquency, the director shall continue to withhold state aid as due and  
12 remit it to the payee or paying agent until the payment deficiency has been  
13 cured. If the director is notified that a district is delinquent on two (2)  
14 or more obligations for which a district has authorized withholding of state  
15 aid to cure a delinquency, the director shall make payment to payees or paying  
16 agents in the order of receipt of notices of the delinquency.

17 (e) If the State Board of Education withholds state aid from a school  
18 district pursuant to subsection (d) of this section, such school district  
19 shall be classified as a Phase III school district in distress as described in  
20 § 6-20-1609.

21 ~~——(e)(f) Provided, however, that the entitlement created in subsection~~  
22 ~~(d) of this section shall be applicable only to that portion of Minimum~~  
23 ~~Foundation Program Aid that the debtor district would otherwise receive in the~~  
24 ~~absence of any debt created pursuant to this section; and provided further,~~  
25 ~~that any duties required of any officer of the state pursuant to subsection~~  
26 ~~(d) of this section shall be only ministerial in nature and shall in no way~~  
27 ~~transfer any liability of the debtor district to the state, any agency, or any~~  
28 ~~officer thereof. Any duties required of any officer of the state pursuant to~~  
29 ~~subsection (d) shall be only ministerial in nature and shall in no way~~  
30 ~~transfer any liability of the debtor to the state, any agency or any officer~~  
31 ~~thereof.~~

32 ~~——(f)(g) The rate of interest on postdated warrants, installment~~  
33 ~~contracts, lease purchase agreements, and current indebtedness shall not~~  
34 ~~exceed the maximum interest rate for school bonds as determined under~~  
35 ~~§ 6-20-1206."~~

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1 SECTION 3. All provisions of this act of a general and permanent nature  
2 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
3 Revision Commission shall incorporate the same in the Code.

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5 SECTION 4. If any provision of this act or the application thereof to  
6 any person or circumstance is held invalid, such invalidity shall not affect  
7 other provisions or applications of the act which can be given effect without  
8 the invalid provision or application, and to this end the provisions of this  
9 act are declared to be severable.

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11 SECTION 5. All laws and parts of laws in conflict with this act are  
12 hereby repealed.

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14 SECTION 6. EMERGENCY. It is found and determined by the General  
15 Assembly of the State of Arkansas that providing bondholders with additional  
16 security for payment of school district bonds will permit Arkansas school  
17 districts to issue bonds on more favorable terms and at lower rates of  
18 interest, and that this legislation must be in effect in order to permit these  
19 benefits to school districts who urgently need to finance capital improvements  
20 to their physical facilities and who need to refund certain outstanding bonds  
21 that will provide substantial savings to the school district. Therefore an  
22 emergency is declared to exist and this act being immediately necessary for  
23 the preservation of the public peace, health and safety shall become effective  
24 on the date of its approval by the Governor. If the bill is neither approved  
25 nor vetoed by the Governor, it shall become effective on the expiration of the  
26 period of time during which the Governor may veto the bill. If the bill is  
27 vetoed by the Governor and the veto is overridden, it shall become effective  
28 on the date the last house overrides the veto.

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*/s/Rep. Cunningham*

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